

FILED 11 AUG 23 125108D00RM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DAVID YBARRA,

Petitioner, Civ. No. 09-881-CL

v. **OPINION AND ORDER**

RICK COURSEY,

Respondent.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been filed, this court reviews the legal principles *de novo*. See Lorin Corp. v. Goto & Co., Ltd., 700 F.2d 1202, 1206 (9th Cir. 1983). I conclude that the R and R is correct.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#63) is

adopted. The petition (#2) is denied and this action is dismissed. Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. See 28 U.S.C. § 2253(2).

IT IS SO ORDERED.

DATED this 23 day of August, 2011.



OWEN M. PANNER
U.S. DISTRICT JUDGE